THE HON'BLE SRI JUSTICE C.V. RAMULU

Friday, 24th day of August,2007

W.P.No.5984 of 2000

Between:-

M. Agamma … Petitioner

and

The Hon'ble Industrial Tribunal
No.II, M.J. Market Road, rep. by the
Chairman, Hyderabad and others … Respondents

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ORAL ORDER:

This Writ Petition is filed seeking a Mandamus directing the 2nd respondent to declare that the legal heirs of the deceased are entitled to all the consequential benefits flowing from the Award of setting side the Order of removal and treating the workman to have been died in harness including additional monetary benefits, duly setting aside the compensation part of the Award dated 13-1-1999 passed in I.D.No.148 of 1998 on the file of Industrial Tribunal-II, Hyderabad.

It appears, the son of the petitioner – M.Nagender – who was appointed as a Cleaner in the A.P. State Road Transport Corporation was removed from service vide Proceedings dated 17-12-1993 of the 2nd respondent and the appeal preferred against the said Order was also dismissed on 10-1-1994. Unfortunately, the said Nagender died on 7-6-1994. It appears, the reason for removal of late Nagender from service was absenteeism without prior intimation or sanction of leave. After conducting a detailed enquiry as per the Regulations, the services of Nagender were removed. However, since Nagender died on 7-6-1994, petitioner herein and other legal heirs raised a dispute in I.D.No.148 of 1998 before the Industrial Tribunal-II, Hyderabad. The Tribunal, on considering the evidence placed before it and after hearing the Management, passed an Award on 13-1-1999 while recording the fact that there was no denial of the absence of

Nagender, held that the punishment of removal from service was shockingly disproportionate to that of the misconduct alleged and set aside the order of removal; however, it was held that the workman be treated as if died in harness and awarded a sum of Rs.25,000/- towards *lump sum* compensation and this amount of compensation of Rs.25,000/- need not be paid, if suitable employment is provided to one of the petitioners in the I.D. preferably to any one of the unmarried sisters of the deceased, if they are qualified; failing which, to the unmarried brother of the deceased. Aggrieved by the same, the present Writ Petition is filed.

Learned counsel for the petitioner states that the finding of the Tribunal that the legal representatives of deceased Nagender are entitled for Rs.25,000/- as *lumpsum* compensation; however, if any suitable employment is given to one of the unmarried sisters or unmarried brothers, the same can be denied is arbitrary and illegal. The Award of the Tribunal is challenged only to the said extent.

Learned counsel for the respondent-Corporation supported the Award passed by the Tribunal and contended that the Tribunal has not committed any error calling for interference of this Court under Article 226 of the Constitution of India.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and perused the impugned Award and other material made available on record.

I am of the opinion that the Tribunal has not committed any error in passing the impugned Award. In the facts and circumstances of this case, the Tribunal has passed a very reasonable Award, which does not require any interference by this Court under Article 226 of the Constitution of India. The Writ Petition is devoid of merits and is liable to be dismissed.

Accordingly, the Writ Petition is dismissed. No order as to costs.

24-8-2007

prk